

*B2
conced* ~~13~~ 19. (Amended) The cosmetic composition according to claim 1, wherein the particulates are selected from the group consisting of organic fillers, inorganic fillers and mixtures thereof.

REMARKS

This application contains claims 1 through 21. Claims 8, 20 and 21 have been canceled. Claims 1 and 14 through 19 have been amended.

Claim 1 now defines the composition as being a product selected from: a blush, a concealer, an eye shadow, a lip product, a liquid make-up, a cream make-up, a mascara, a moisturizer, and a powder.

Claims 14 through 18 have now been rewritten in independent form.

Applicants acknowledge with appreciation the telephone interview on May 14, 2001 with Examiner Liliana Di Nola-Baron. As indicated during the interview, claims 1 and 14 through 19 were discussed. The Examiner advised that to obtain allowance of claim 1, we may need to define the ingredient, the vehicle, possibly the amount of the vehicle and the percentage of the

fluororsilane for each product. Claim 1 now defines the composition in a Markush group so that the percentages of the fluororsilane for selected products are recited. Each product with its range, if any, defines over the cited prior art. Thus, no further amendments to the ingredient or vehicle is needed in claim 1 as will be demonstrated below.

Claims 1 through 21 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,458,976 to Horino et al. (hereinafter Horino et al.).

The rejection of claims 8, 20 and 21 is moot since they have been canceled.

Horino et al. does not provide any cosmetic composition containing any one of the ingredients selected from the group consisting of: a chelating agent, a film former, a plasticizer, a resin, a retinoid, a skin penetration enhancer, a stabilizer, a sunscreen, a vitamin, a wax, and any combinations thereof. Horino et al. does not provide a cosmetic composition that is a blush, a concealer, an eye shadow, a lip product, a liquid make-up, a cream make-up, a mascara, a moisturizer or a powder as defined in claim 1. Thus, claim 1 and claims 2 through 7 and 19 that directly or indirectly depend therefrom, and claims 14 through 18, are not anticipated by Horino et al.

Therefore, the rejection of claims 1 through 7 and 14 through 19 under 35 U.S.C. §102(b) as being anticipated by Horino et al. should be withdrawn, and claims 1 through 7 and 14 through 19 should be allowed.

Claims 1 through 8, 12, 16, 20 and 21 have been rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent No. JP 08208418 A to Itou et al. (hereinafter Itou et al.).

As mentioned above, the rejection of claims 8, 20 and 21 is moot since they have been canceled.

Itou et al. discloses a water-based manicure, which is a composition for application onto a nail. The water-based manicure disclosed by Itou et al. is not a cosmetic composition having a vehicle suitable for application to skin. In addition, Itou et al. does not disclose such a composition having an ingredient selected from the group consisting of: a chelating agent, a film former, a plasticizer, a resin, a retinoid, a skin penetration enhancer, a stabilizer, a sunscreen, a vitamin, a wax, and any combinations thereof. Moreover, Itou et al. does not provide a cosmetic composition that is a blush, a concealer, an eye shadow, a lip product, a liquid make-up, a cream make-up, a mascara, a moisturizer or a powder, as defined in claim 1. The composition of Itou et al. is a water-based manicure for

application onto a nail, not skin, lips or eyelashes. Accordingly, claims 1 through 7 and 16, are not anticipated by Itou et al. Therefore, the rejection of claims 1 through 8, 12, 16, 20 and 21 under 35 U.S.C. §102(b) as being anticipated by Itou et al. should be withdrawn, and claims 1 through 7 and 16 should be allowed.

Claims 1, 5 and 6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Horino et al. in view of U.S. Patent No. 5,482,547 to Bugnon et al. (hereinafter Bugnon et al.).

First, applicants respectfully submit that Bugnon et al. and Horino et al. belong to non-analogous arts, i.e., cosmetics arts versus industrial paints, such as, alkyd paint, varnish, metal effect finishes and stoving lacquers, or printing inks, and thus are not combinable. Specifically, a person of ordinary skill in the art would not be motivated to select any ingredient from an industrial paint, varnish or printing ink compositions, such as those disclosed by Bugnon et al., and use them in the compositions of Horino et al. Bugnon et al. discloses a composition having (a) a high molecular weight material in the form of a paint, varnish or printing ink and (b) an organic pigment. The composition is used for stoving lacquers (see Example 22), particularly automotive lacquers (see column 5, lines 18-21), metal effect finishes (see column 5, lines 20-21),

and alkyd paints (see Example 23). There is no disclosure or suggestion in Bugnon et al. that such organic pigments could be used in cosmetics. There is no disclosure or suggestion in Bugnon et al. to modify the paint, varnish or printing ink compositions to make them usable in cosmetics. Thus, a person of ordinary skill in the art would not be motivated to select any ingredient from the paint, varnish or printing ink compositions disclosed by Bugnon et al., which are useful as metal effect finishes, alkyd paints, and stoving lacquers, and use them in the compositions of Horino et al.

Secondly, even if combined, the combination of the references does not disclose all of the elements of the present compositions or methods. Horino et al. discloses a water and oil repellent coated powder and states that the coated powder may be used to produce cosmetics. The Examiner concedes that Horino et al. does not disclose organic pigments. In addition, Horino et al. does not provide any cosmetic composition containing any one of the ingredients selected from the group consisting of: a film former, a plasticizer, a resin, a retinoid, a sunscreen, and any combinations thereof. Furthermore, Horino et al. does not provide a cosmetic composition that is a blush, a concealer, an eye shadow, a lip product, a liquid make-up, a cream make-up, a mascara, a moisturizer or a powder.

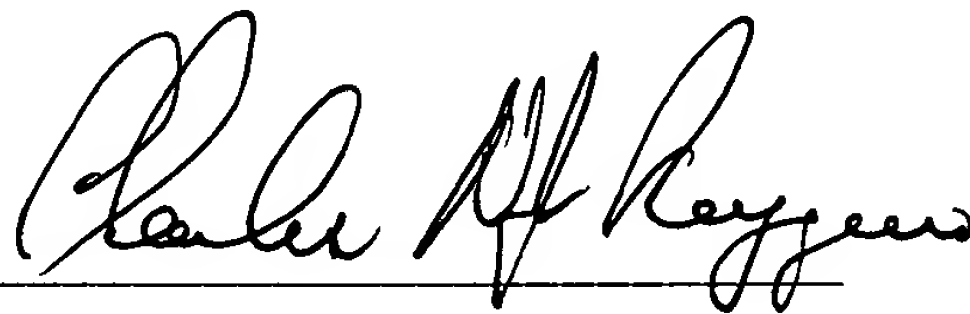
Therefore, the rejection of claims 1, 5 and 6 under 35 U.S.C. §103(a) based on Horino et al. and Bugnon et al. should be withdrawn, and claims 1, 5 and 6 should be allowed.

In view of the above amendments, claims 1 through 7 and 14 through 19 clearly define over the cited prior art references and the cited combination of the same. Accordingly, allowance of claims 1 through 7 and 14 through 19 is respectfully requested and an early issuance of a Notice of Allowability is earnestly solicited.

Respectfully submitted,

Dated: June 13, 2001

By:



Charles N. J. Ruggiero
Reg. No. 28,468
Attorney for Applicants
Ohlandt, Greeley, Ruggiero
& Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford CT 06901-2682
Tel: 203-327-4500

B